

STATE OF TENNESSEE  
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF:	)	
	)	
THREATT ENTERPRISES, INC.	)	TDFI No.: 08-47-C
d/b/a CASHWAY CHECK ADVANCE,	)	
	)	
Respondent.	)	

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EMERGENCY CEASE AND DESIST ORDER

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The Commissioner of the Tennessee Department of Financial Institutions (hereinafter "Commissioner"), having determined that Threatt Enterprises, Inc. d/b/a Cashway Check Advance (hereinafter "Respondent"), has violated and is currently violating the "Check Cashing Act of 1997" (hereinafter "Act"), Tennessee Code Annotated Sections (hereinafter "TENN. CODE ANN. §§") 45-18-101, *et seq.*, and that extraordinary circumstances require immediate action in this matter, hereby issues the following EMERGENCY CEASE AND DESIST ORDER pursuant to TENN. CODE ANN. § 45-1-107(a)(4), TENN. CODE ANN. § 45-1-107(c), TENN. CODE ANN. § 45-18-104(a), TENN. CODE ANN. § 45-18-117(1), and TENN. CODE ANN. § 45-18-118(c).

JURISDICTION AND IDENTIFICATION OF THE PARTIES

1. TENN. CODE ANN. § 45-1-104 provides that the Tennessee Department of Financial Institutions (hereinafter "Department") is charged with the execution of all laws relative to persons doing or engaged in a banking or other business as provided in Title 45 (Banks and Financial Institutions).

2. TENN. CODE ANN. § 45-1-107(a)(4) provides that, in addition to other powers conferred by Title 45 (Banks and Financial Institutions), the Commissioner has

the authority to order any person to cease violating a provision of Title 45 (Banks and Financial Institutions) or lawful regulation issued under Title 45 (Banks and Financial Institutions). Pursuant to TENN. CODE ANN. § 45-1-107(c), notice and opportunity for a hearing shall be provided in advance of the Commissioner issuing such an order, except that in cases involving extraordinary circumstances requiring immediate action, the Commissioner may take such action but shall promptly afford a subsequent hearing upon application to rescind the action taken.

3. The Commissioner is responsible for the administration, enforcement, and interpretation of the Act, and any regulations promulgated pursuant to the Act. TENN. CODE ANN. §§ 45-18-101, *et seq.*

4. Pursuant to TENN. CODE ANN. § 45-18-117(1), if, after notice and an opportunity for a hearing, the Commissioner finds that a person has violated the Act or a rule adopted under the Act, the Commissioner may order the person to cease and desist violating the Act or its rules. However, in cases involving extraordinary circumstances requiring immediate action, the Commissioner may take such action without providing the opportunity for a prior hearing pursuant to TENN. CODE ANN. § 45-18-118(c). In such circumstances, the Commissioner shall promptly afford a subsequent hearing upon an application to rescind the action that is filed with the Commissioner within twenty (20) days after receipt of the notice of the Commissioner's emergency action pursuant to TENN. CODE ANN. § 45-18-118(c).

5. The Respondent is a domestic, for-profit corporation incorporated under the laws of the state of Tennessee on January 8, 2004 (01/08/04). The Respondent's principal office is located at 5060 Le Chateau Cv., Memphis, Tennessee 38125. The Registered Agent for the Respondent is Joyce Threatt, 5060 Le Chateau Cv., Memphis,

Tennessee 38125. The Respondent's identification number with the Tennessee Secretary of State is 0460896.

6. The Department issued the Respondent a Tennessee license to lawfully engage in the business of deferred presentment services (license number 3502) on or about November 7, 2007 (11/07/07).

#### FACTUAL ALLEGATIONS

7. As of the entry date of this EMERGENCY CEASE AND DESIST ORDER, the Department has never issued a Tennessee license to the Respondent to lawfully engage in the business of cashing payment instruments in this state.

8. As of the entry date of this EMERGENCY CEASE AND DESIST ORDER, the Respondent has never registered as a Money Services Business (hereinafter "MSB") as required by 31 C.F.R. § 103.11(uu) and 31 C.F.R. § 103.41(a)(1).

9. On March 18, 2008 (03/18/08), Compliance Examiner-in-Charge Calvin Stout (hereinafter "Stout") conducted an onsite examination of the Respondent at 2757 Kimball Street, Suite 102, Memphis, Tennessee 38114, pursuant to the "Deferred Presentment Services Act," TENN. CODE ANN. §§ 45-17-101, *et seq.*

10. During the course of the onsite examination referenced in paragraph nine (9), Stout uncovered evidence that the Respondent was engaging in the business of cashing payment instruments in the state of Tennessee without having first obtained a Tennessee check casher's license from the Department.

11. Specifically, Stout obtained a check cashing log from the Respondent during the course of the aforementioned onsite examination. According to said check cashing log, the Respondent had cashed approximately one hundred forty-five (145)

checks covering the time period January 14, 2008 (01/14/08) through March 15, 2008 (03/15/08). Additionally, according to said check cashing log, the face value of the checks cashed totaled approximately one hundred ninety-eight thousand two hundred eighty-seven dollars and seventy-eight cents (\$198,287.78). Furthermore, according to said check cashing log, the Respondent collected approximately fifteen thousand one hundred ninety-five dollars and fourteen cents (\$15,195.14) in fees/interest.

12. Pursuant to the onsite examination referenced in paragraph nine (9), Stout drafted an examination report that included a "Violations from Examination" section. According to said examination report, under the "Violations from Examination" section, Stout specifically noted "T.C.A. 45 18 104(a) LICENSE REQUIREMENT. No person shall engage in, or in any manner advertise engagement in, the business of cashing payment instruments without having first obtained a license under the provisions of this chapter. A separate license shall be required for each location from which the business is conducted." Additionally, under the "Violations from Examination" section of said examination report, Stout specifically noted "Cashway Check Advance is not a licensed Check Casher, and all business conducted at this location is unlicensed and all fees are to be refunded."

13. Additionally, according to the examination report referenced in paragraph twelve (12), Stout specifically noted that the Respondent qualified as a MSB, as that term is defined in 31 C.F.R. § 103.11(uu), and that the Respondent had failed to comply with a number of requirements set forth in the "Bank Secrecy Act," 31 U.S.C.S. § 5311, *et seq.*, and the federal regulations promulgated pursuant to the "Bank Secrecy Act."

14. The examination report referenced in paragraph twelve (12) was signed by Stout and by an individual named Felesia Shaw (hereinafter "Shaw"). According to the aforementioned examination report, Shaw was the Respondent's Manager at the time of the onsite examination. Shaw was provided a copy of the examination report at the conclusion of the onsite examination.

15. The aforementioned pattern of engaging in the business of cashing payment instruments without having first obtained a Tennessee check casher's license from the Department or registering as a MSB with the United States Department of Treasury is an indicator that the Respondent will continue to engage in the business of cashing payment instruments in the state of Tennessee in the future, notwithstanding the fact that the Respondent has never been issued a Tennessee license by the Department to lawfully engage in the business of cashing payment instruments in this state and has never registered as a MSB with the United States Department of Treasury.

#### CAUSES OF ACTION

16. The factual allegations as stated in paragraphs seven (7) through fifteen (15) of this Order, incorporated by reference as though specifically set forth herein, are sufficient to establish by a preponderance of the evidence that the Respondent has violated and is currently violating TENN. CODE ANN. § 45-18-104(a), in that the Respondent has engaged and is currently engaging in the business of cashing payment instruments in the state of Tennessee without having first obtained a check casher's license from the Department.

17. The factual allegations as stated in paragraphs seven (7) through fifteen (15) of this Order, incorporated by reference as though specifically set forth herein, are sufficient to establish by a preponderance of the evidence that extraordinary

circumstances require immediate action pursuant to TENN. CODE ANN. § 45-1-107(c) and TENN. CODE ANN. § 45-18-118(c).

#### POLICY STATEMENT

18. In order to qualify for a check casher's license, TENN. CODE ANN. § 45-18-105(a) requires an applicant to demonstrate a minimum net worth of at least twenty-five thousand dollars (\$25,000.00) for each location.

19. TENN. CODE ANN. § 45-18-105(e) requires an applicant seeking a check casher's license to demonstrate the experience, character, and general fitness sufficient to command the confidence of the public and warrant the belief that the business to be operated thereunder will be operated lawfully and fairly.

20. TENN. CODE ANN. § 45-18-119(d) states that "[a]ny person who carries on an unauthorized check cashing business commits a Class E felony."

21. TENN. CODE ANN. § 45-18-121(b) requires each licensed check casher to comply with all applicable federal statutes governing currency transaction reporting.

22. 31 C.F.R. § 103.41(a)(1) requires each MSB, whether or not the MSB is licensed by any state, to register with the United States Department of the Treasury and, as part of that registration, maintain a list of its agents as required by 31 U.S.C. § 5330.

23. Pursuant to 31 C.F.R. § 103.125(a), each MSB is required to develop, implement, and maintain an effective anti-money laundering program. An effective anti-money laundering program is one that is reasonably designed to prevent the MSB from being used to facilitate money laundering and the financing of terrorist activities.

24. Pursuant to 31 C.F.R. § 103.22(b), each financial institution, including the Respondent, is required to file a report of each deposit, withdrawal, exchange of currency

or other payment or transfer, by, through, or to such financial institution which involves a transaction in currency of more than ten thousand dollars (\$10,000.00).

25. The factual allegations set forth in paragraphs seven (7) through fifteen (15) of this Order, incorporated by reference as though specifically set forth herein, are sufficient to establish by a preponderance of the evidence that the Respondent has violated and is currently violating TENN. CODE ANN. § 45-1-107(a)(4), TENN. CODE ANN. § 45-1-107(c), TENN. CODE ANN. § 45-18-104(a), TENN. CODE ANN. § 45-18-117(1), and TENN. CODE ANN. § 45-18-118(c), by engaging in the check cashing business in the state of Tennessee without having first obtained a check casher's license from the Department. Said violations have deprived the Commissioner of the opportunity to determine whether the Respondent has the requisite experience, character, and general fitness sufficient to command the confidence of the public and warrant the belief that the business to be operated thereunder will be operated lawfully and fairly, thereby also depriving the Commissioner of the opportunity to make an informed determination of whether to grant the Respondent a license under the Act prior to cashing payment instruments in the state of Tennessee.

### EMERGENCY RELIEF

26. Having considered the factual allegations contained herein, the Commissioner has determined that the Respondent has violated and is currently violating the Act, and that extraordinary circumstances warrant immediate action.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Respondent shall cease and desist immediately from engaging in the business of cashing payment instruments in the state of Tennessee without a check casher's license pursuant to TENN. CODE ANN. § 45-1-107(a)(4), TENN. CODE ANN. § 45-1-107(c), TENN. CODE ANN. § 45-18-104(a), TENN. CODE ANN. § 45-18-117(1), and TENN. CODE ANN. § 45-18-118(c).

27. The provisions of this Order shall remain in full force and effect unless and until such time as any provision is modified, terminated, suspended or set aside by the Commissioner, an administrative judge, or any court having jurisdiction over the matters addressed herein.

### RIGHTS OF THE RESPONDENT

28. The Respondent has the right to a prompt hearing for the purpose of contesting and obtaining rescission of this EMERGENCY CEASE AND DESIST ORDER. If a prompt hearing is timely requested by the Respondent, the hearing shall be conducted in accordance with the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101, *et seq.*, and pursuant to the Official Compilation Rules & Regulations of the State of Tennessee, Rules of Procedure for Contested Cases, Chapter 0180-6.

29. The sole issue to be considered at the prompt hearing is whether extraordinary circumstances required immediate action in this matter. This EMERGENCY CEASE AND DESIST ORDER does not constitute a final adjudication



upon the merits, but merely constitutes a temporary, emergency order until such time that a contested case may be promptly instituted by the filing of: 1) a Notice of Opportunity for Hearing and the Rights of the Respondent; and 2) a Notice of Charges.

30. In order to request a prompt hearing, the Respondent must file a written request with the Commissioner within twenty (20) days from receipt of this EMERGENCY CEASE AND DESIST ORDER. Any written request for a hearing must be filed with the Commissioner, Tennessee Department of Financial Institutions, Nashville City Center, 511 Union Street, 4<sup>th</sup> Floor, Nashville, Tennessee 37219. If no such written request is timely filed with the Commissioner, then this EMERGENCY CEASE AND DESIST ORDER shall be deemed a Final Order without further legal process.

31. In the event this EMERGENCY CEASE AND DESIST ORDER becomes a Final Order, the Respondent may submit to the Commissioner a petition for stay of effectiveness of the Final Order within seven (7) days of the effective date of the Final Order pursuant to TENN. CODE ANN. § 4-5-316.

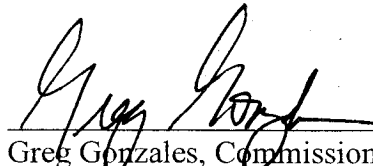
32. In the event this Order becomes a Final Order, the Respondent may file a Petition for Reconsideration with the Commissioner, stating the specific grounds upon which the relief is requested, within fifteen (15) days of the effective date of the Final Order pursuant to TENN. CODE ANN. § 4-5-317.

33. The Respondent may seek judicial review of this Order by filing a Petition for Judicial Review in the chancery court of Davidson County, Tennessee, within sixty (60) days of the date this Order becomes a Final Order. A Petition for Reconsideration does not act to extend the sixty (60) day period; however, if the Petition is granted, then

the sixty (60) day period is tolled and a new sixty (60) day period commences from the effective date of the Final Order disposing of the Petition.

ENTERED AND EFFECTIVE this the 31<sup>ST</sup> day of March, 2008.

On behalf of the Department:

A handwritten signature in black ink, appearing to read "Greg Gonzales", is written over a horizontal line.

Greg Gonzales, Commissioner  
Tennessee Department of Financial Institutions